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SENATE BILL 100

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

INTRODUCED BY

Dede Feldman

AN ACT

RELATING TO TAXATION; PROVIDING THAT PROPERTY OWNED BY A LIMITED LIABILITY COMPANY OR OTHER BUSINESS ASSOCIATION IS ELIGIBLE FOR THE SOLAR MARKET DEVELOPMENT TAX CREDIT; PROVIDING THAT THE SOLAR MARKET DEVELOPMENT TAX CREDIT SHALL BE REFUNDABLE FOR CERTAIN TAXPAYERS; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-2-18.14 NMSA 1978 (being Laws 2006, Chapter 93, Section 1) is amended to read:

"7-2-18.14. SOLAR MARKET DEVELOPMENT TAX CREDIT--  
RESIDENTIAL AND SMALL BUSINESS SOLAR THERMAL AND PHOTOVOLTAIC  
MARKET DEVELOPMENT TAX CREDIT.--

A. Except as provided in Subsection [B] C of this section, a taxpayer who files an individual New Mexico income

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1 tax return for a taxable year beginning on or after January 1,  
2 2006 and who purchases and installs after January 1, 2006 but  
3 before December 31, 2015 a solar thermal system or a  
4 photovoltaic system in a residence, business or agricultural  
5 enterprise in New Mexico [~~owned by that taxpayer~~] may apply  
6 for, and the department may allow, a solar market development  
7 tax credit [~~of up to~~] if the residence, business or  
8 agricultural enterprise is:

9 (1) owned by the taxpayer; or

10 (2) owned by a limited liability company or  
11 other business association of which the taxpayer is an owner.

12 B. The amount of the solar market development tax  
13 credit shall be not more than thirty percent of the purchase  
14 and installation costs of the system; provided that under no  
15 circumstances shall the federal and state tax credits  
16 allowed, when combined, total more than thirty percent of the  
17 purchase and installation cost of the system. To determine  
18 the amount of the state solar market development tax credit  
19 due pursuant to this section, the amount of the allowable  
20 federal tax credit, whether claimed or not claimed by the  
21 taxpayer, shall be deducted from thirty percent of the  
22 purchase and installation cost of the system. The total  
23 solar market development tax credit allowed for either a  
24 photovoltaic system or a solar thermal system shall not  
25 exceed nine thousand dollars (\$9,000). The department shall

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1 allow solar market development tax credits only for solar  
2 thermal systems and photovoltaic systems certified by the  
3 energy, minerals and natural resources department.

4 ~~[B.]~~ C. Solar market development tax credits may  
5 not be claimed or allowed for:

6 (1) a heating system for a swimming pool or  
7 a hot tub; or

8 (2) a commercial or industrial photovoltaic  
9 system other than an agricultural photovoltaic system on a  
10 farm or ranch that is not connected to an electric utility  
11 transmission or distribution system.

12 ~~[C.]~~ D. The department may allow a maximum annual  
13 aggregate of:

14 (1) two million dollars (\$2,000,000) in  
15 solar market development tax credits for solar thermal  
16 systems; and

17 (2) three million dollars (\$3,000,000) in  
18 solar market development tax credits for photovoltaic  
19 systems.

20 ~~[D.]~~ E. A portion of the solar market development  
21 tax credit that remains unused in a taxable year may be  
22 carried forward for a maximum of ten consecutive taxable  
23 years following the taxable year in which the credit  
24 originates until fully expended.

25 F. If the amount of the tax credit allowed by the

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1 department exceeds the taxpayer's income tax liability for  
2 the taxable year, and if the taxpayer has a modified gross  
3 income for the taxable year of less than one hundred fifty  
4 percent of the federal poverty level, the excess may be  
5 refunded to the taxpayer.

6 G. A husband and wife who file separate returns  
7 for a taxable year in which they could have filed a joint  
8 return may each claim only one-half of the credit that would  
9 have been allowed on a joint return.

10 H. A taxpayer who otherwise qualifies for and  
11 claims a credit pursuant to this section for purchase and  
12 installation of a solar thermal system or a photovoltaic  
13 system by a limited liability company or other business  
14 association of which the taxpayer is an owner may claim a  
15 credit only in proportion to the taxpayer's interest in the  
16 limited liability company or business association. The total  
17 credit claimed in the aggregate by all owners of the limited  
18 liability company or business association shall not exceed  
19 the amount of credit allowed pursuant to Subsection B of this  
20 section.

21 ~~[E.]~~ I. Prior to July 1, 2006, the energy,  
22 minerals and natural resources department shall adopt rules  
23 establishing procedures to provide certification of solar  
24 thermal systems and photovoltaic systems for purposes of  
25 obtaining a solar market development tax credit. The rules

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1 shall address technical specifications and requirements  
2 relating to safety, code and standards compliance, solar  
3 collector orientation and sun exposure, minimum system sizes,  
4 system applications and lists of eligible components. The  
5 energy, minerals and natural resources department may modify  
6 the specifications and requirements as necessary to maintain  
7 a high level of system quality and performance.

8 ~~[F-]~~ J. As used in this section:

9 (1) "photovoltaic system" means an energy  
10 system that collects or absorbs sunlight for conversion into  
11 electricity; and

12 (2) "solar thermal system" means an energy  
13 system that collects or absorbs solar energy for conversion  
14 into heat for the purposes of space heating, space cooling or  
15 water heating."

16 Section 2. APPLICABILITY.--The provisions of this act  
17 apply to taxable years beginning on or after January 1, 2008.